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## HOUSE CONCURRENT RESOLUTION

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REQUESTING THE JUDICIAL COUNCIL TO APPOINT A COMMITTEE TO REVIEW  
AND RECOMMEND REVISIONS TO THE HAWAII PENAL CODE.

1 WHEREAS, the Hawaii Penal Code, first enacted in 1972, has  
2 not been comprehensively updated since Act 314, Session Laws of  
3 Hawaii 1986, to ensure that grades of offenses warrant the level  
4 of culpability so that sentences are appropriate and  
5 proportionate to the nature of the crime; and  
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7 WHEREAS, the Hawaii Penal Code has been amended in a  
8 piecemeal manner over the past several decades without paying  
9 attention to whether the dollar values that set threshold levels  
10 for various offenses and for restitution are appropriate and  
11 proportionate to other sentences imposed for criminal offenses;  
12 and  
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14 WHEREAS, research by the Justice Policy Institute has  
15 indicated that the current criminal justice system has a  
16 disparate impact on low-income residents, particularly Native  
17 Hawaiians, and is not a cost-effective approach to deterring  
18 crime, reducing recidivism, or providing restitution; now,  
19 therefore,  
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21 BE IT RESOLVED by the House of Representatives of the  
22 Twenty-eighth Legislature of the State of Hawaii, Regular  
23 Session of 2015, the Senate concurring, that the Judicial  
24 Council, established pursuant to section 601-4, Hawaii Revised  
25 Statutes, is requested to appoint a committee to review the  
26 Hawaii Penal Code and recommend to the Legislature revisions to  
27 the Code that it concludes will help ensure that sentences are  
28 fair and proportionate to the crime committed with particular  
29 attention paid to Hawaii Penal Code sections that base  
30 culpability on dollar amounts; and



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1 BE IT FURTHER RESOLVED that the members of the committee  
2 shall include:

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- 4 (1) A representative from the Judiciary;
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- 6 (2) A member of the Senate Committee on Judiciary and  
7 Labor;
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- 9 (3) A member of the House of Representatives Committee on  
10 Judiciary;
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- 12 (4) The Attorney General, or the Attorney General's  
13 designee;
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- 15 (5) The prosecuting attorneys of each of the counties, or  
16 their designees;
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- 18 (6) A representative from the Office of the Public  
19 Defender;
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- 21 (7) A representative from the police department of each  
22 county;
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- 24 (8) Public or private economists;
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- 26 (9) Psychologists or social workers;
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- 28 (10) A representative from the Office of Hawaiian Affairs;
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- 30 (11) Private citizens interested in criminal law and civil  
31 liberties;
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- 33 (12) Hawaii attorneys in private practice who handle  
34 criminal cases;
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- 36 (13) A representative from the Intake Services Center  
37 Division of the Corrections Division of the Department  
38 of Public Safety;



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(14) A representative from a prisoner advocacy group; and

(15) A representative from a victim advocacy group;

provided that the committee shall include at least one member from each county; and

BE IT FURTHER RESOLVED that the committee shall recommend updates to the Hawaii Penal Code by:

(1) Reviewing The American Law Institute Model Penal Code, including recent proposals; the criminal codes of other states; and other criminal law resources;

(2) Assessing the application of the principles of the "Justice Reinvestment in Hawaii: Analyses & Policy Options" report (August 2014) by the Council of State Governments Justice Center to code sections in which culpability is linked to a dollar value; and

(3) Analyzing whether grades and punishment are appropriate and proportionate to other sentences imposed for criminal or civil offenses and are cost-effective in deterring crime, reducing recidivism, and providing restitution to victims in a manner that provides equal justice and punishment regardless of socioeconomic class or ethnicity; and

BE IT FURTHER RESOLVED that the committee may accept grants, gifts, and other appropriations of funds to defray the costs of its work; and

BE IT FURTHER RESOLVED that the Judicial Council may request the Legislative Reference Bureau to assist the committee with research and reporting assistance, as needed; and

BE IT FURTHER RESOLVED that the Judicial Council is encouraged to use, to the greatest extent possible, the faculty and students of the University of Hawaii William S. Richardson School of Law in performing its work; and



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1 BE IT FURTHER RESOLVED that the members of the committee  
2 serve without compensation; provided that members of the  
3 committee may be reimbursed for the costs of mileage, parking,  
4 and transportation from the Neighbor Islands; and  
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6 BE IT FURTHER RESOLVED that no member of the committee  
7 shall be made subject to Chapter 84, Hawaii Revised Statutes,  
8 solely because of that member's participation as a member of the  
9 committee; and  
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11 BE IT FURTHER RESOLVED that the Judicial Council is  
12 requested to submit its findings and recommendations, including  
13 any proposed legislation, to the Governor and Legislature no  
14 later than 20 days prior to the convening of the Regular Session  
15 of 2016; and  
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17 BE IT FURTHER RESOLVED that certified copies of this  
18 Concurrent Resolution be transmitted to the Chief Justice of the  
19 Hawaii Supreme Court, Chairperson of the Board of Trustees of  
20 the Office of Hawaiian Affairs, Acting Director of the  
21 Legislative Reference Bureau, Attorney General, Director of  
22 Public Safety, State Public Defender, prosecuting attorneys of  
23 each of the counties, and police chiefs of each of the counties.  
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OFFERED BY: Kal Aluk

MAR 13 2015

